

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Anne-Claude COUFFIN *et al.*

Serial No.: 10/596,578

Filed: June 16, 2006

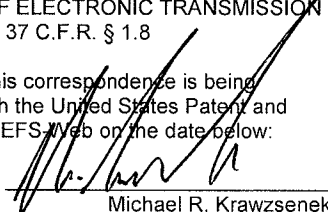
For: ABSORBENT HYDROPHOBIC
BORONATE GLACTOMANNAN
COMPLEXES AND PROCESS FOR
PRODUCING SAME

Group Art Unit: 3761

Examiner: Not Yet Assigned

Atty. Dkt. No.: BRKP:025US

Confirmation No.: 8020

CERTIFICATE OF ELECTRONIC TRANSMISSION 37 C.F.R. § 1.8	
I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office via EFS Web on the date below:	
August 7, 2009 Date	 Michael R. Krawzsenek

RENEWED PETITION UNDER 37 CFR 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

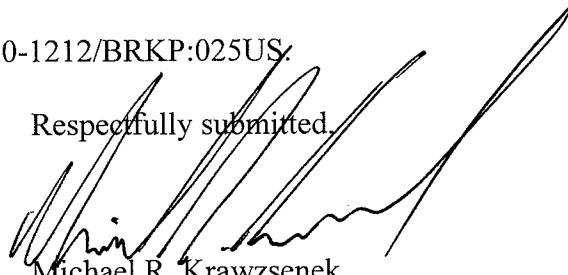
In response to the Decision in Response to Applicants Petition Under 37 CFR 1.47(a), dated March 18, 2009, enclosed are:

- (a) A Declaration of Mr. Frederic Picard with exhibits A-C;
- (b) Our payment via credit card in the amount of \$1,110.00 to cover the three month extension of time fee for a large entity;

- (c) A copy of the Decision in Response to Applicants Petition Under 37 CFR 1.47(a), dated March 18, 2009; and
- (d) A Request for Extension of Time of three months to and including August 18, 2009. Should such request be absent, consider this such a request and authorization to withdraw the appropriate fee under 37 C.F.R. §§ 1.16 to 1.21 as stated below.

The required fee in the amount of \$1,110.00 in connection with the filing of this paper is being charged to a credit card through EFS-Web concurrently with this submission. The Commissioner is hereby authorized to deduct any underpayment of fees or any additional fees required under 37 C.F.R. §§ 1.16 to 1.21 in connection with the filing of this paper from Fulbright & Jaworski Deposit Account No.: 50-1212/BRKP:025US.

Respectfully submitted,



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Date: August 7, 2009



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In re Application of COUFFIN et al :
U.S. Application No.: 10/596,578 :
PCT Application No.: PCT/CA2006/000772 :
Int. Filing Date: 12 May 2006 :
Priority Date Claimed: 12 May 2005 : DECISION
Attorney Docket No.: BRKP:025US :
For: ABSORBENT HYDROPHOBIC :
BORONATE GALACTOMANNAN COMPLEXES :
AND PROCESS FOR PRODUCING SAME :

This is in response to applicant's petition under 37 CFR 1.47(a) filed 06 February 2009.

BACKGROUND

On 12 May 2006, applicant filed international application PCT/CA2006/000772, which claimed priority of an earlier Canada application filed 12 May 2005. A copy of the international application was communicated to the USPTO from the International Bureau on 16 November 2006. The thirty-month period for paying the basic national fee in the United States expired on 12 November 2007.

On 16 June 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 July 2008, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 February 2009, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Mohammed Berrada refuses to sign the application papers. Although the affidavit of Charles Landrum states that the application papers were sent to Erwin Schultz, there is no evidence based on firsthand knowledge that Mr. Berrada received the application papers from Dr. Schultz. Furthermore, an affidavit from the person to whom Mr. Berrada's purported refusal to sign was made has not been provided. Such affidavit must specify the circumstances of the refusal. Thus, it would not be reasonable to conclude at the present time that Mr. Berrada refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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